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Date 10-27-93

Surname [REDACTED]

E:EO:R:2

AUG 18 1993

[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(7) of the Internal Revenue Code.

The information provided indicates that you were incorporated under the laws of the state of [REDACTED] on [REDACTED], [REDACTED]. According to your Bylaws, you were formed for the purpose of "acquiring, owning and operating a not-for profit private recreational golf, tennis, swimming and social club for the exclusive use and benefit of its members and their guests."

You represent that you offer two classes of memberships, golf and social. You further state that the total number of members in all categories of membership as of the end of each fiscal year of the Club shall not exceed [REDACTED].

You are part of a residential community development known as [REDACTED]. Your facilities are currently owned by [REDACTED], the developer of [REDACTED].

You have entered into a "Club Facilities Purchase Agreement" with [REDACTED]. Under the agreement you are currently leasing the property on which your facilities are located. Also pursuant to the agreement you have agreed that [REDACTED] will manage your facilities. According to the agreement, [REDACTED] will perform the aforementioned functions and duties until the closing date or [REDACTED].

You have represented that your Board of Governors has been initially designated by [REDACTED]. You also represent that the Board of Governors will be responsible for the government and administration of your affairs and property and have exclusive authority to: (1) Accept or reject applications for membership; (2) Set membership contributions, dues, assessments and charges; (3) Establish rules and regulations; (4) Hire and terminate personnel; and (5) In general, control the management and operations of the Club and the Club facilities.

Section 501(c)(7) of the Code provides that clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes are exempt from federal income tax,

provided no part of the net earnings inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides that exemption under section 501(c)(7) of the Code extends only to other nonprofitable purposes but does not apply to a club if any part of its net earnings inures to the benefit of a private shareholder.

Rev. Rul. 65-219, 1965-2 C.B. 168, provides that a club which is operated under an agreement with its resident agent whereby he controls the size of the club membership, the amounts of initiation fees and annual club dues, and retains all initiation fees and 90 percent of dues and transfer fees in return for the exclusive use of the swimming pool which he owns and operates is not exempt from federal income tax under section 501(c)(7) of the Code. The agreement permitted the club to use the property as a licensee for a period of 20 years. In addition to undertaking the expense of constructing the pool, the licensor agreed to pay for the support and maintenance of the pool, and to furnish personnel necessary for its efficient operation. The Rev. Rul. concluded that arrangement in this case went beyond the normal management contract whereby a club is saved the burden of administrative details by paying a reasonable rental to an outside operator in the form of share of the receipts. Accordingly, it was held that the club is operated as a commercial venture for the financial benefit of the licensor and was not exempt under section 501(c)(7) of the Code.

In the instant case, [REDACTED], pursuant to the "Club Facilities Purchase Agreement", will control your operations until the closing date or [REDACTED]. [REDACTED] also has appointed your initial Board of Governors. Since you are currently controlled by [REDACTED] you will be operated as an integral part of a commercial venture of [REDACTED]. Therefore, you are operated for the financial benefit of [REDACTED], and are not operated exclusively for the pleasure and recreation of your members.

Accordingly, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(7) of the Code. Therefore, you are required to file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted in duplicate within 30 days from the date of this letter. You

[REDACTED]

also have the right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Procedures.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office.

When submitting additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: E:EO:R:2, Room 6138. These symbols do not refer to your case but rather to its location.

Sincerely yours,

[REDACTED]

[REDACTED]

Chief, Exempt Organizations
Rulings Branch 2

cc: DD, Brooklyn
Attn: EO Group

cc: [REDACTED]